

1 GENERAL GOVERNMENT CABINET

2 Board of Dentistry

3 (New Administrative Regulation)

4 201 KAR 8:500. Board organization.

5 RELATES TO: 2010 Ky. Acts ch. 85, sec. 2

6 STATUTORY AUTHORITY: 2010 Ky. Acts ch. 85, sec. 2, 2010 Ky. Acts ch. 85, sec. 3(1)(a), (h)

7 NECESSITY, FUNCTION, AND CONFORMITY: 2010 Ky. Acts ch. 85, sec. 2 authorizes the board to
8 hold annual elections for vacancies, and 2010 Ky. Acts ch. 85, sec. 3(1)(h) requires the board to
9 establish committees and subcommittees and the membership thereof. This administrative regulation
10 establishes the organization of the board, the procedure for elections, and the structure of committees of
11 the board.

12 Section 1. Vacancies for the position of dentist on the board shall be filled by candidates selected
13 according to the following geographic chart with two (2) members representing Zone 1 and one (1)
14 member each from Zone 2 to Zone 6, inclusive:

15 (1) Zone 1 - Louisville Area: Breckinridge, Bullitt, Carroll, Grayson, Hardin, Henry, Jefferson,
16 Larue, Meade, Nelson, Oldham, Shelby, Spencer, and Trimble counties.

17 (2) Zone 2 - Blue Grass Area: Anderson, Bath, Bourbon, Boyle, Clark, Estill, Fayette, Fleming,
18 Franklin, Garrard, Harrison, Jackson, Jessamine, Lee, Lincoln, Madison, Menifee, Mercer,
19 Montgomery, Nicholas, Owen, Powell, Rockcastle, Scott, and Woodford counties.

20 (3) Zone 3 - Eastern and Northeastern Area: Boone, Boyd, Bracken, Campbell, Carter, Elliott,
21 Gallatin, Grant, Greenup, Kenton, Lawrence, Lewis, Mason, Pendleton, Robertson, and Rowan

counties.

(4) Zone 4 - Kentucky Mountain, Southeastern and South Central Area: Adair, Bell, Breathitt, Casey, Clay, Clinton, Cumberland, Floyd, Green, Harlan, Johnson, Knott, Knox, Laurel, Leslie, Letcher, Magoffin, Marion, Martin, McCreary, Metcalfe, Monroe, Morgan, Owsley, Perry, Pike, Pulaski, Russell, Taylor, Washington, Wayne, Whitley, and Wolfe counties.

(5) Zone 5 - Green River and Pennyryle Area: Allen, Barren, Butler, Daviess, Edmonson, Hancock, Hart, Henderson, Logan, McLean, Ohio, Simpson, and Warren counties.

(6) Zone 6 - Southwestern and West Central Area: Ballard, Caldwell, Calloway, Carlisle, Christian, Crittenden, Fulton, Graves, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, Muhlenberg, Todd, Trigg, Union, and Webster counties.

Section 2. Vacancies for the position of dental hygienist on the board shall be filled by candidates selected according to the following geographic chart with one (1) member being selected from each of the Zones 1 and 2:

(1) Zone 1 - East: Adair, Anderson, Bath, Bell, Boone, Bourbon, Boyd, Boyle, Bracken, Breathitt, Campbell, Carter, Casey, Clark, Clay, Clinton, Cumberland, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Gallatin, Garrard, Grant, Green, Greenup, Harlan, Harrison, Jackson, Jessamine, Johnson, Kenton, Knott, Knox, Larue, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, Madison, Magoffin, Marion, Martin, Mason, McCreary, Menifee, Mercer, Metcalfe, Monroe, Montgomery, Morgan, Nelson, Nicholas, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Scott, Taylor, Washington, Wayne, Whitley, Wolfe, and Woodford counties.

(2) Zone 2 - West: Allen, Ballard, Barren, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Christian, Crittenden, Daviess, Edmonson, Fulton, Graves, Grayson, Hancock,

1 Hardin, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Livingston, Logan, Lyon,
2 Marshall, McCracken, McLean, Meade, Muhlenberg, Ohio, Oldham, Shelby, Simpson, Spencer,
3 Todd, Trigg, Trimble, Union, Warren, and Webster counties.

4 Section 3. The board shall notify each licensed dentist and dental hygienist of an upcoming election and
5 the need for nominations at least sixty (60) days prior to the nomination deadline by publishing the
6 notice of election on the board's Web site, by electronic communications with the respective
7 associations, and in written communication to all resident licensees. The notice of elections shall include
8 the steps to nominate an individual for an open position, the date nominations will cease, the date the
9 election will be held, and the manner in which the election will be held.

10 Section 4. Nominations shall be sent to the office of the board at least fifteen (15) days prior to the
11 election in order that the candidates may consent to or decline their nominations before the election.
12 Nominations received after the fifteen (15) day deadline shall not be accepted.

13 Section 5. Appointment of Committee Members and Committee Chairpersons.

14 (1) The chairpersons and members of a standing committee of the board shall be appointed by
15 the board president and shall be subject to approval by the board.

16 (2) A task force may be created:

17 (a) At the request of any board member subject to a majority vote of the board members; or

18 (b) At the discretion of the board president.

19 (3) Chairpersons and members of a task force created under Section 5(2)(a) of this administrative
20 regulation shall be appointed by a majority vote of the board members. Chairpersons and
21 members of a task force created under Section 5(2)(b) of this administrative regulation shall be
22 appointed by the board president.

23 (4) Staff members of the office of the board may serve as non-voting ex officio members of any

committee, standing committee, or task force created under KRS Chapter 313 or the administrative regulations promulgated thereunder.

(5) Standing committee members shall have a term which expires September 30 of each calendar year. All reappointments shall be made by the board no later than September 30.

(6) Only a standing committee or task force chairperson or vice-chairperson in the absence of the chairperson may bring reports or recommendations before the board for action. All reports to the board shall be submitted in written format.

(7) A task force shall cease to exist at the close of its work. A member of a task force shall not serve for a period of more than one (1) year without reappointment. A task force shall serve at the pleasure of the board. A task force may be dissolved at any time by a majority vote of the board members.

(8) When a task force is created, the board president shall give a specific written charge to the task force with guidelines, as appropriate. The board president may establish a reporting deadline for the completion of the specific written charge.

(9) Task force members shall serve without compensation unless they are board members eligible for compensation under 2010 Ky. Acts ch. 85, sec. 2(7).

Section 6. Standing Committees of the Board.

(1) Executive Committee. The executive committee shall:

(a) Address legislative issues and proposals and review administrative regulations for submission to the board, including recommending to the board the promulgation of administrative regulations, amendment of administrative regulations, or repeal of administrative regulations relating to:

1. All levels of personnel licensed, certified, or registered by the board; and

2. Rules and operating procedures for the board and each of its standing committees and task forces;

(b) Serve as a resource for board staff:

1. By creating and recommending to the board a biennial budget for the board prior to submission to appropriate state agencies;

2. By identifying, developing, and recommending to the board sources of funding for its programs; and

(c) Make recommendations to the board regarding fees to be charged by the board.

(2) Credentials Committee. The credentials committee shall review the credentials of individuals applying for licensure as a dentist or dental hygienist and make recommendations for acceptance or denial to the full board based on the requirements set forth by 201 KAR 8:530 and 201 KAR 8:560.

(3) Law Enforcement Committee. The law enforcement committee shall be involved with the disciplinary actions of individuals licensed or registered or who are applicants for licensure or registration by the board pursuant to 2010 Ky. Acts ch. 85, sec. 14-17. Members of this committee shall sign a confidentiality agreement with the board and shall be subject to disciplinary action of the full board if found to violate this agreement.

Section 7. Agendas.

(1) A person desiring a matter to be placed on the agenda for a regular board meeting shall submit a written request to the executive director not less than twenty (20) working days prior to the board meeting.

(2) The request shall contain the following information:

(a) The matter requested to be placed before the board;

1 (b) The action desired on the matter;

2 (c) Documentation in support of the request;

3 (d) The name, address, telephone number, and other contact methods as may be necessary to
4 contact the person or organization submitting the request; and

5 (e) The name, address, telephone number, and other contact methods as may be necessary to
6 contact each person requesting to speak on behalf of the request at the board meeting.

7 (3) Not less than seven (7) working days prior to the board meeting, the president of the board
8 shall set the agenda and cause its publication on the board's Web site and in writing. Written
9 copies of the agenda may be obtained from the executive director after it is made public. The
10 board may charge a reasonable fee for the provision of an agenda by mail, fax, or in hard copy.

11 Following publication, the agenda shall be available for inspection at the office of the board.

12 (4) The submission of a request for a matter to be placed on the agenda at a regular board
13 meeting shall not guarantee that the matter will be placed on the agenda, or the sequential order
14 on the agenda of a matter approved for the agenda.

15 (5) The board shall adhere to the published agenda at a regular board meeting, unless the board
16 takes action to amend the agenda.

17 Section 8. Quorum.

18 (1) The board shall transact business so long as it has convened with a quorum present.

19 (2) A simple majority of appointed members shall constitute a quorum for standing committee
20 and task force committee meetings.

21 Section 9. Voting.

22 (1) Voting shall be accomplished by one (1) of the following methods:

23 (a) Voice vote;

1 (b) A show of hands; or

2 (c) A roll call vote.

3 (2) In order for the board to take action on a routine matter, other than those set forth Section
4 9(3) of this administrative regulation, a majority of board members present shall have agreed to
5 the action.

6 (3) In order for the board to take action on the following matters, two-thirds of the members of
7 the board shall have agreed to the action:

8 (a) Promulgate, amend, or repeal an administrative regulation;

9 (b) Appoint, direct, or hire by personal service contract the executive director or general counsel;

10 (c) Discipline or action regarding statutory employees;

11 (d) Initiate a legal action on behalf of the board;

12 (e) Hire outside legal counsel to defend the board in a legal action against the board, a member
13 of the board acting in their official capacity, or an employee of the board acting in their official
14 capacity, or for other specified purpose;

15 (f) Adopt a proposed budget for the board;

16 (g) Authorize the expenditure of more than \$10,000, unless the amount is a routine budgeted
17 expenditure;

18 (h) Take action on an item added to the agenda of the board at the same meeting at which the
19 item is added to the agenda of the board; or

20 (i) Take an action at an emergency meeting of the board.

21 (4) A supermajority of the members present at a meeting shall be required in order for the board
22 to approve or deny an application for licensure by credentials.

23 Section 10. Attendance of Board Staff and Employees at a Board Meeting.

1 (1) The following staff of the board shall attend each board meeting, unless excused in writing
2 by the president of the board or excused from the meeting by action of the board:

3 (a) Executive director; and

4 (b) General counsel.

5 (2) An employee of the board, other than one (1) specified in Section 10(1) of this administrative
6 regulation shall attend a meeting of the board if requested to do so by the president of the board
7 or the executive director.

8 (3) An employee of the board, other than one specified in Section 10(1) of this administrative
9 regulation may attend a meeting of the board as part of their state duty time with the permission
10 of the president of the board or the executive director.

DR. WILLIAM P. BOGGESS, DMD, Board President

July 10, 2010
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, August 31, 2010, at 9:00 a.m. at the office of the Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, KY 40222. Individuals interested in being heard at this hearing shall notify this agency in writing no later than August 24, 2010, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until August 31, 2010.

Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Brian K. Bishop, Executive Director, Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, KY, 40222. Phone (502) 429-7280, fax (502) 429-7282, email briank.bishop@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: **201 KAR 8:500. Board organization.**

Contact Person: **Brian K. Bishop, Executive Director
Board of Dentistry**

(1) Provide a brief summary of:

(a) What this administrative regulation does: **This administrative regulation establishes the organization of the board, the procedure for elections, and the structure of committees of the board. 2010 Ky. Acts ch. 85, sec. 2 and 3 direct the make up of the board and the conduct of its business affairs.**

(b) The necessity of this administrative regulation: **This administrative regulation is necessary to establish procedures for the appointment of board members and to direct the board in the conduct of its affairs.**

(c) How this administrative regulation conforms to the content of the authorizing statute: **This administrative regulation provides information necessary about the appointments to and make up of the board and the conduct of the board's affairs as required by 2010 Ky. Acts ch. 85, sec. 2 and 3.**

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: **This administrative regulation provides information necessary about the appointments to and make up of the board and the conduct of the board's affairs as required by 2010 Ky. Acts ch. 85, sec. 2 and 3.**

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: **N/A**

(b) The necessity of the amendment to this administrative regulation: **N/A**

(c) How the amendment conforms to the content of the authorizing statute: **N/A**

(d) How the amendment will assist in the effective administration of the statutes: **N/A**

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: **Only the Kentucky Board of Dentistry will be affected by this administrative regulation.**

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: **The Kentucky Board of Dentistry is charged by 2010 Ky. Acts ch. 85 to regulate the practice of dentistry in the Commonwealth.**

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): **The Board is a self funded agency who's budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 – 2011 an allotment of \$705,400 and for FY 2011 – 2012 and allotment of \$714,000.**

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): **The Kentucky Board of Dentistry is the regulatory agency and accrues no benefits from the regulations but rather provides enforcement of the chapter and processes for it licensees to legally practice dentistry in the Commonwealth.**

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: **The Board is a self funded agency who's budget was approved in HB 1 of the 2010 Extraordinary Session of the General Assembly. HB 1 provided for FY 2010 – 2011 an allotment of \$705,400 and for FY 2011 – 2012 and allotment of \$714,000. The Kentucky Board of Dentistry receives no monies from the General Fund.**

(a) Initially: **No additional costs are expected.**

(b) On a continuing basis: **No additional costs are expected.**

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: **The Kentucky Board of Dentistry is a fully self funded agency and derives it funding from fees paid by it licensees.**

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: **201 KAR 8:520E provides the fees to be paid by licensees which makes the board fully self funded and financially solvent.**

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: **N/A**

(9) TIERING: Is tiering applied? **Tiering was not appropriate in this administrative regulation because the administrative regulation does not affect licensees.**

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 201 KAR 8:500.

Contact Person: Brian K. Bishop, Executive Director,
Board of Dentistry

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes X No

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Board of Dentistry is the only state government entity which will be impacted by this regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

2010 Ky. Acts ch. 85

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

There will be no new net fiscal affect on the Kentucky Board of Dentistry as the agency is a fully self funded agency and receives no general fund dollars.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

Compliance with this regulation will provide the agency with enough money to meets its budgetary obligations as set forth in HB1 of the 2010 Extraordinary Session of the General Assembly.

(c) How much will it cost to administer this program for the first year?

FY 2010 – 2011 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is \$705,400

(d) How much will it cost to administer this program for subsequent years?

FY 2011 – 2012 as allocated in HB 1 from the 2010 Extraordinary Session of the General Assembly is \$714,000

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: